



The Commonwealth of Massachusetts

Office of the Commissioner of Banks

One South Station

Boston, Massachusetts 02110

JANE SWIFT
GOVERNOR

THOMAS J. CURRY
COMMISSIONER

April 10, 2002

Barry F. Crosby, President
and Chief Executive Officer
Polish National Credit Union
P.O. Box 327
Chicopee Falls, Massachusetts 01021-0327

Dear Mr. Crosby:

This letter is in response to your correspondence dated March 28, 2002 to the Division of Banks (the "Division") concerning the authority of Polish National Credit Union (the "Credit Union") to establish a branch office in a county other than that where its main office is located. Your letter notes that, among other things, the Credit Union's by-laws authorize membership to individuals who are residents of one of the following four counties: Hampden, Hampshire, Franklin and Berkshire. Your letter also cites the applicable statute, section 8 of chapter 171 of the General Laws. As part of its strategic planning process and in consideration of future branch office expansion to serve its membership, the Credit Union seeks clarification of the restrictive branching statute relative to its broader by-law on eligibility for membership.

The General Laws are the singular source for the determination raised in your letter. The law governs the geographical area in which a state-chartered credit union may establish a branch office. It is applicable, similarly to a credit union whether its membership industrial based, such as the State Employees Credit Union, or whether membership is based on community or other associations. A credit union's membership by-law does not grant any branching authority only the statute does.

The wording of section 8 of chapter 171 of the General Laws is very specific. It is based on previous bank branch office statutes which were drafted at a time when branching authority was being extended beyond county lines. The law provides two separate and distinct authorities:

- A credit union may branch anywhere within the county in which its main office is located.



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• A credit union may establish a branch office in another county as long as the exact site of the branch office is within twenty-five miles of the credit union's main office. Moreover, section 8 restricts such out-of-home county branching to once a calendar year and would prohibit out-of-home county branching if an inter-county merger in which one or more branch offices in another county were retained was consummated previously in that calendar year.

Since the statute controls, only an amendment to section 8 can change those restrictions. As you may be aware, the Massachusetts Credit Union League, Inc. filed a petition for the current session of the Legislature to amend section 8. That legislation, House 394, would eliminate the county and mileage limitations as well as the calendar year restriction in the present statute. House 394 would allow a state-chartered credit union to establish a branch office at "such locations determined by the commissioner to be reasonably necessary to furnish services to its members within the Commonwealth." The language of House 394 and several other bills before the Committee on Banks and Banking were included in a new draft of Senate 10, filed by Senate Chairman Andrea F. Nuciforo, Jr., which sought to rewrite several banking laws. That new draft, Senate 2156, is currently pending before the Senate Ways and Means Committee.

Although your request and this response has focused on a branch office, please be aware that the Division has issued some opinions on activities and services which can be offered at a site by a credit union without that location becoming a branch office.

Sincerely,



Joseph A. Leonard, Jr.
Deputy Commissioner of Banks
and General Counsel

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